

FILE COPY

STATE OF WISCONSIN  
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY  
PROCEEDINGS AGAINST

NARINDER KUMAR SAINI, M.B.B.S.,  
RESPONDENT.

FINAL DECISION  
AND ORDER

The parties to this proceeding for the purpose of Wis. Stats. sec. 227.53 are:

Narinder Kumar Saini, M.B.B.S.  
531 Northport Drive, Apt. #1  
Madison, WI 53704

Wisconsin Medical Examining Board  
1400 East Washington Avenue  
P.O. Box 8935  
Madison, WI 53708

Department of Regulation and Licensing  
Division of Enforcement  
1400 East Washington Avenue  
P.O. Box 8935  
Madison, WI 53708

The Wisconsin Medical Examining Board received a Stipulation submitted by the parties to the above-captioned matter. The Stipulation, a copy of which is attached hereto, was executed by Narinder Kumar Saini, M.B.B.S., Respondent; Richard L. Bolton, attorney for Respondent; and Gilbert C. Lubcke, attorney for Complainant. Based upon the Stipulation of the parties, the Wisconsin Medical Examining Board makes the following Findings of Fact, Conclusions of Law and Order:

FINDINGS OF FACT

1. Narinder Kumar Saini, M.B.B.S., Respondent herein, of 531 Northport Drive, Apt. #1, Madison, Wisconsin 53704, is a physician duly licensed and currently registered to practice medicine and surgery in the State of Wisconsin, license #24251, said license having been granted on October 23, 1981.
2. Respondent was duly licensed as a physician and surgeon in the State of Iowa, license #22456.
3. On 8/7/90, the Board of Medical Examiners of the State of Iowa, and the Director of the Iowa Department of Public Health entered an Order finding that Respondent was unable to practice medicine with reasonable skill and safety as a result of a mental or physical condition and that his practice of

psychiatry had been harmful or detrimental to the public in violation of Iowa Code sec. 148.6(1)(h) and 653 Iowa Adm. Code secs. 12.4(3), 12.4(3)(c) and 12.4(14). Respondent's license to practice medicine and surgery in the State of Iowa was suspended indefinitely.

4. Respondent suffers from a bipolar disorder--a manic-depressive illness. This disorder had not been diagnosed and, therefore, was not being treated, at the time of the disciplinary action in Iowa. Respondent's illness was found in the Iowa proceedings to have impaired his ability to practice medicine and surgery with reasonable skill and safety to patients at the time of the occurrences giving rise to the disciplinary proceeding.

5. Respondent is presently under the care and treatment of Ronald Diamond, M.D., a psychiatrist, and John Fleming, M.D., a neurologist, at the University of Wisconsin Hospital and Clinics. Respondent has been under the care of these physicians since April, 1990. Respondent's primary treatment modality is lithium carbonate. At various times, he has also been on low doses of Haldol. At the present time, Respondent's illness is being controlled by the medications he is taking and his ability to practice medicine and surgery with reasonable skill and safety to patients is not impaired by his illness, however, it is possible that Respondent may experience manic-depressive episodes in the future even though he continues to comply with his treatment regimen.

#### CONCLUSIONS OF LAW

1. The Wisconsin Medical Examining Board has jurisdiction in this disciplinary proceeding pursuant to Wis. Stats. sec. 448.02.

2. The Wisconsin Medical Examining Board has the authority to resolve this disciplinary proceeding by Stipulation without an evidentiary hearing pursuant to Wis. Stats. sec. 227.44(5).

3. Narinder Kumar Saini, M.B.B.S., having been subject to disciplinary action in Iowa and having had his license to practice medicine and surgery in the State of Iowa indefinitely suspended is in violation of Wis. Stats. sec. 448.02(3) and Wis. Adm. Code sec. MED 10.02(2)(q).

4. Respondent's illness is reasonably related to his ability to practice medicine and surgery. Respondent's illness, at its present level of severity, may be reasonably accommodated by appropriate conditions placed upon Respondent's license to practice medicine and surgery in the state of Wisconsin.

#### ORDER

NOW, THEREFORE, IT IS ORDERED that the Stipulation of the parties is approved.

IT IS FURTHER ORDERED that Respondent's license to practice medicine and surgery in the State of Wisconsin shall be, and hereby is, limited as follows:

- a. Respondent shall not practice or attempt to practice medicine or surgery in the State of Wisconsin as a sole practitioner.
- b. Respondent shall not practice or attempt to practice medicine or surgery in the State of Wisconsin when unable to practice with reasonable skill and safety to patients.
- c. Respondent shall remain in treatment with Ronald Diamond, M.D., at the University of Wisconsin Hospital and Clinics and shall comply with all of Dr. Diamond's recommendations for diagnostic testing, evaluation and treatment. If, at any time, Dr. Diamond is unable or unwilling to serve as Respondent's treating physician, a successor treating physician shall be engaged with the approval of the Wisconsin Medical Examining Board.
- d. Dr. Diamond or his successor treating physician shall submit written reports to the Wisconsin Medical Examining Board every 90 days commencing 90 days after the date of this Final Decision and Order. The reports shall assess the Respondent's progress in his treatment program. Respondent shall be responsible for the timely filing of these reports. Dr. Diamond or his successor treating physician shall report immediately to the Wisconsin Medical Examining Board any change in Respondent's condition which impairs Respondent's ability to practice medicine or surgery with reasonable skill and safety to patients or any failure of Respondent to comply with his recommendations for diagnostic testing, evaluation or treatment.
- e. Respondent shall notify the Wisconsin Medical Examining Board prior to commencing any practice of medicine or surgery in the State of Wisconsin and shall identify an individual satisfactory to the Board who will supervise Respondent's practice of medicine or surgery and who will report promptly to the Wisconsin Medical Examining Board and Respondent's treating physician any conduct which may impact upon patient health, safety or welfare, or Respondent's ability to practice medicine or surgery with reasonable skill and safety to patients. The term "supervise" is not intended to limit Respondent's ability to exercise independent medical judgment, but rather refers to a relationship whereby there is a higher authority who is responsible to oversee Respondent and who will report to the Wisconsin Medical Examining Board and the treating physician any conduct which may impact upon patient health, safety or welfare, or upon Respondent's ability to practice medicine or surgery. If at any time the individual who is supervising Respondent is unable or unwilling to serve in this capacity, the Wisconsin Medical Examining Board will appoint a successor.

- f. Respondent shall keep on file with the Wisconsin Medical Examining Board current releases which comply with state and federal law authorizing release of all of his medical records and reports, including mental health records, and his employment records to the Wisconsin Medical Examining Board or its authorized agents and representatives, and permitting his treating physicians and therapists and the supervisor of his practice of medicine or surgery to discuss his medical status, including his mental health, and his employment status with the Wisconsin Medical Examining Board or its authorized agents and representatives.

IT IS FURTHER ORDERED that Respondent shall appear before the Wisconsin Medical Examining Board at least annually to review his current status. Respondent may at these appearances petition the Wisconsin Medical Examining Board for modification of the terms of this limited license. Denial in whole or in part of Respondent's petition shall not constitute denial of a license and shall not give rise to a contested case within the meaning of Wis. Stats. secs. 227.01(3) and 227.42.

IT IS FURTHER ORDERED that, pursuant to the authority of Wis. Stats. sec. 448.02(4), should the Wisconsin Medical Examining Board determine that there is probable cause to believe that Respondent has violated the terms of this Final Decision and Order of the Wisconsin Medical Examining Board, the Board may order that the license of Respondent to practice medicine and surgery in the State of Wisconsin be summarily suspended pending investigation of the alleged violation.

The rights of a party aggrieved by this Final Decision and Order to petition the Wisconsin Medical Examining Board for rehearing and to petition for judicial review are set forth in the attached "Notice of Appeal Information".

Dated at Madison, Wisconsin, this 21 day of February, 1991.

WISCONSIN MEDICAL EXAMINING BOARD

  
Michael P. Mehr, M.D., Secretary

GCL:kcb  
ATY-1377

STATE OF WISCONSIN  
BEFORE THE MEDICAL EXAMINING BOARD

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IN THE MATTER OF THE DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	
	:	STIPULATION
NARINDER KUMAR SAINI, M.B.B.S.,	:	
RESPONDENT.	:	

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It is hereby stipulated between Narinder Kumar Saini, M.B.B.S., Respondent herein, personally, and by his attorney, Richard L. Bolton, and Gilbert C. Lubcke, attorney for Complainant, as follows:

1. Narinder Kumar Saini, M.B.B.S., Respondent herein, of 531 Northport Drive, Apt. #1, Madison, Wisconsin 53704, is a physician duly licensed and currently registered to practice medicine and surgery in the State of Wisconsin, license #24251, said license having been granted on October 23, 1981.
2. A formal disciplinary proceeding against Respondent was commenced before the Wisconsin Medical Examining Board on 9/7/90, by the filing of a Notice of Hearing and Complaint.
3. The parties to this Stipulation have freely and voluntarily entered into this agreement for the purpose of resolving the pending disciplinary proceeding without the necessity for a formal evidentiary hearing.
4. The parties stipulate and agree that the Wisconsin Medical Examining Board may render the Final Decision and Order attached hereto, the terms of which have been agreed upon by the parties to this Stipulation.
5. This Stipulation shall be submitted directly to the Wisconsin Medical Examining Board for consideration and for a Final Decision and Order. The parties hereby waive the right to an intervening Proposed Decision from the Administrative Law Judge.
6. The parties to this Stipulation further agree that the Final Decision and Order shall be entered without costs to either party.
7. Respondent has commenced an action for declaratory relief before the Circuit Court for Dane County, Branch 4, Dr. Narinder Kumar Saini vs. Wisconsin Medical Examining Board, Case No. 90-CV-4471. If the Wisconsin Medical Examining Board accepts the terms of this Stipulation and the Final Decision and Order, a copy of which is attached hereto, Respondent will move the Circuit Court for an order dismissing the action for declaratory relief.
8. The parties to this Stipulation and George W. Arndt, M.D., the member of the Wisconsin Medical Examining Board designated to supervise and direct the investigation of this matter, will be permitted to appear before the Wisconsin Medical Examining Board to speak in support of this Stipulation.

9. If any term of this Stipulation is not accepted by the Wisconsin Medical Examining Board, then no term of this Stipulation will be binding in any manner on any party, and the matter will be remanded to the Administrative Law Judge for further proceedings.

Dated: 1/28/91

Narinder Kumar Saini  
Narinder Kumar Saini, M.B.B.S.  
Respondent

Dated: 1/28/91

Richard L. Bolton  
Richard L. Bolton  
Attorney for Respondent

Dated: 1/25/91

Gilbert C. Lubcke  
Gilbert C. Lubcke  
Attorney for Complainant

GCL:keb  
ATY-1376

## NOTICE OF APPEAL INFORMATION

(Notice of Rights for Rehearing or Judicial Review,  
the times allowed for each and the identification  
of the party to be named as respondent)

The following notice is served on you as part of the final decision:

### 1. Rehearing.

Any person aggrieved by this order may petition for a rehearing within 20 days of the service of this decision, as provided in section 227.49 of the Wisconsin Statutes, a copy of which is attached. The 20 day period commences the day after personal service or mailing of this decision. (The date of mailing of this decision is shown below.) The petition for rehearing should be filed with the State of Wisconsin Medical Examining Board.

A petition for rehearing is not a prerequisite for appeal directly to circuit court through a petition for judicial review.

### 2. Judicial Review.

Any person aggrieved by this decision has a right to petition for judicial review of this decision as provided in section 227.53 of the Wisconsin Statutes, a copy of which is attached. The petition should be filed in circuit court and served upon the State of Wisconsin Medical Examining Board.

within 30 days of service of this decision if there has been no petition for rehearing, or within 30 days of service of the order finally disposing of the petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing.

The 30 day period commences the day after personal service or mailing of the decision or order, or the day after the final disposition by operation of the law of any petition for rehearing. (The date of mailing of this decision is shown below.) A petition for judicial review should be served upon, and name as the respondent, the following: the State of Wisconsin Medical Examining Board.

The date of mailing of this decision is February 28, 1991.

WLD:dms  
886-490

**227.49 Petitions for rehearing in contested cases.** (1) A petition for rehearing shall not be a prerequisite for appeal or review. Any person aggrieved by a final order may, within 20 days after service of the order, file a written petition for rehearing which shall specify in detail the grounds for the relief sought and supporting authorities. An agency may order a rehearing on its own motion within 20 days after service of a final order. This subsection does not apply to s. 17.025 (3) (e). No agency is required to conduct more than one rehearing based on a petition for rehearing filed under this subsection in any contested case.

(2) The filing of a petition for rehearing shall not suspend or delay the effective date of the order, and the order shall take effect on the date fixed by the agency and shall continue in effect unless the petition is granted or until the order is superseded, modified, or set aside as provided by law.

(3) Rehearing will be granted only on the basis of:

(a) Some material error of law.

(b) Some material error of fact.

(c) The discovery of new evidence sufficiently strong to reverse or modify the order, and which could not have been previously discovered by due diligence.

(4) Copies of petitions for rehearing shall be served on all parties of record. Parties may file replies to the petition.

(5) The agency may order a rehearing or enter an order with reference to the petition without a hearing, and shall dispose of the petition within 30 days after it is filed. If the agency does not enter an order disposing of the petition within the 30-day period, the petition shall be deemed to have been denied as of the expiration of the 30-day period.

(6) Upon granting a rehearing, the agency shall set the matter for further proceedings as soon as practicable. Proceedings upon rehearing shall conform as nearly may be to the proceedings in an original hearing except as the agency may otherwise direct. If in the agency's judgment, after such rehearing it appears that the original decision, order or determination is in any respect unlawful or unreasonable, the agency may reverse, change, modify or suspend the same accordingly. Any decision, order or determination made after such rehearing reversing, changing, modifying or suspending the original determination shall have the same force and effect as an original decision, order or determination.

**227.52 Judicial review; decisions reviewable.** Administrative decisions which adversely affect the substantial interests of any person, whether by action or inaction, whether affirmative or negative in form, are subject to review as provided in this chapter, except for the decisions of the department of revenue other than decisions relating to alcohol beverage permits issued under ch. 125, decisions of the department of employee trust funds, the commissioner of banking, the commissioner of credit unions, the commissioner of savings and loan, the board of state canvassers and those decisions of the department of industry, labor and human relations which are subject to review, prior to any judicial review, by the labor and industry review commission, and except as otherwise provided by law.

**227.53 Parties and proceedings for review.** (1) Except as otherwise specifically provided by law, any person aggrieved by a decision specified in s. 227.52 shall be entitled to judicial review thereof as provided in this chapter.

(a) Proceedings for review shall be instituted by serving a petition therefor personally or by certified mail upon the agency or one of its officials, and filing the petition in the office of the clerk of the circuit court for the county where the judicial review proceedings are to be held. Unless a rehearing is requested under s. 227.49, petitions for review under this paragraph shall be served and filed within 30 days after the service of the decision of the agency upon all parties under s. 227.48. If a rehearing is requested under s. 227.49, any party desiring judicial review shall serve and file a petition for review within 30 days after service of the order finally

disposing of the application for rehearing, or within 30 days after the final disposition by operation of law of any such application for rehearing. The 30-day period for serving and filing a petition under this paragraph commences on the day after personal service or mailing of the decision by the agency. If the petitioner is a resident, the proceedings shall be held in the circuit court for the county where the petitioner resides, except that if the petitioner is an agency, the proceedings shall be in the circuit court for the county where the respondent resides and except as provided in ss. 77.59 (6) (b), 182.70 (6) and 182.71 (5) (g). The proceedings shall be in the circuit court for Dane county if the petitioner is a nonresident. If all parties stipulate and the court to which the parties desire to transfer the proceedings agrees, the proceedings may be held in the county designated by the parties. If 2 or more petitions for review of the same decision are filed in different counties, the circuit judge for the county in which a petition for review of the decision was first filed shall determine the venue for judicial review of the decision, and shall order transfer or consolidation where appropriate.

(b) The petition shall state the nature of the petitioner's interest, the facts showing that petitioner is a person aggrieved by the decision, and the grounds specified in s. 227.57 upon which petitioner contends that the decision should be reversed or modified. The petition may be amended, by leave of court, though the time for serving the same has expired. The petition shall be entitled in the name of the person serving it as petitioner and the name of the agency whose decision is sought to be reviewed as respondent, except that in petitions for review of decisions of the following agencies, the latter agency specified shall be the named respondent:

1. The tax appeals commission, the department of revenue.

2. The banking review board or the consumer credit review board, the commissioner of banking.

3. The credit union review board, the commissioner of credit unions.

4. The savings and loan review board, the commissioner of savings and loan, except if the petitioner is the commissioner of savings and loan, the prevailing parties before the savings and loan review board shall be the named respondents.

(c) Copies of the petition shall be served, personally or by certified mail, or, when service is timely admitted in writing, by first class mail, not later than 30 days after the institution of the proceeding, upon all parties who appeared before the agency in the proceeding in which the order sought to be reviewed was made.

(d) The agency (except in the case of the tax appeals commission and the banking review board, the consumer credit review board, the credit union review board, and the savings and loan review board) and all parties to the proceeding before it, shall have the right to participate in the proceedings for review. The court may permit other interested persons to intervene. Any person petitioning the court to intervene shall serve a copy of the petition on each party who appeared before the agency and any additional parties to the judicial review at least 5 days prior to the date set for hearing on the petition.

(2) Every person served with the petition for review as provided in this section and who desires to participate in the proceedings for review thereby instituted shall serve upon the petitioner, within 20 days after service of the petition upon such person, a notice of appearance clearly stating the person's position with reference to each material allegation in the petition and to the affirmance, vacation or modification of the order or decision under review. Such notice, other than by the named respondent, shall also be served on the named respondent and the attorney general, and shall be filed, together with proof of required service thereof, with the clerk of the reviewing court within 10 days after such service. Service of all subsequent papers or notices in such proceeding need be made only upon the petitioner and such other persons as have served and filed the notice as provided in this subsection or have been permitted to intervene in said proceeding, as parties thereto, by order of the reviewing court.